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Attorneys for Plaintiff Stephen Song

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

STEPHEN SONG, as an individual and  
on behalf of all others similarly situated,

Plaintiffs,

vs.

KLM GROUP, INC. dba KLM  
ONSITE SOLUTIONS, a Pennsylvania  
corporation; and DOES 1 through 20,  
inclusive,

Defendants.

Case No.: 3:10-CV-03583-SC

**CLASS ACTION**

**DECLARATION OF LARRY W. LEE  
IN SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: June 10, 2011

Time: 10:00 a.m.

Courtroom: 1

1 I, LARRY W. LEE, declare as follows:

2 1. I am an attorney at law duly licensed to practice law before all of the  
3 courts of the state of California, as well as this and other federal courts, and I am a  
4 shareholder in the Diversity Law Group, P.C., co-counsel for plaintiff and the  
5 plaintiff class in the above-entitled cause of action. In that capacity, I have been  
6 involved with all aspects of this litigation. Accordingly I have personal knowledge  
7 of all the matters set forth herein, and if called, I could and would competently  
8 testify to the following.

9 2. This Declaration is submitted in support of the Application for  
10 Preliminary Approval of Class Action Settlement, and the orders sought therein.  
11 All of the factual representations made in said application, filed herewith, are true  
12 to the best of my knowledge. A true and correct copy of the fully executed  
13 Settlement Agreement, with its attachments, is concurrently filed herewith.

14 3. The class representative, Stephen Song, is a former "independent  
15 contractor" who worked for Defendant during the class period.

16 4. This Declaration will address three areas: (1) verification of factual  
17 matters set forth in the Motion for Preliminary Approval of Class Action  
18 Settlement, (2) summary of settlement terms and exhibits attached hereto, and (3)  
19 the qualifications of Diversity Law Group to act as co-class counsel in this matter.

20 **Verification of Factual Matters**

21 5. The summary of the litigation, as set forth in the moving papers, is  
22 accurate. This matter has been reviewed and investigated in significant detail by  
23 Class Counsel.

24 6. During the course of the litigation, the parties conducted substantial  
25 informal discovery, which included the production of payroll and time record data  
26 for a substantial amount of Class members. These documents provided counsel  
27 with a critical understanding of the nature of the work done by Class members,  
28 defendant's policies and procedures in relation to its business and the Class

1 members, and were used in analyzing certification, liability and damage issues in  
2 connection with all phases of the litigation, and ultimately with the settlement  
3 conference process.

4 7. After having reviewed and analyzed the class payroll and time data, as  
5 well as other documents, the Parties engaged in a settlement conference with the  
6 Hon. Laurel Beeler, which eventually lasted over a span of two (2) days.

7 8. In summary, class counsel were able to fully consider the strengths and  
8 weaknesses of their case, and of KLM's defenses. In short, full and complete  
9 arm's-length negotiations have occurred.

#### 10 **Summary of Settlement Terms and Exhibits Attached**

11 9. The proposed settlement was reached after a settlement conference that  
12 lasted a span of two days before the Hon. Laurel Beeler.

13 10. The terms of the settlement are set forth in the Settlement Agreement  
14 entered into by the parties and concurrently filed herewith. Pursuant to the terms  
15 of the Settlement Agreement, a class of approximately 86 current and former  
16 workers who were classified as independent contractors by Defendant will share in  
17 the maximum settlement fund of \$55,000 before fees and costs.

18 11. After the payment of all fees and costs, each Class member will get a  
19 raw average of approximately \$300, with each person's amount being higher or  
20 lower depending on the amount of pay they earned while working for Defendant.

21 12. Our evaluation of the damages that the class could recover was balanced  
22 with the value to the class of a definite settlement as compared to a possible  
23 settlement, or judgment, or even a possible loss of the case, in the future. The  
24 settlement number reached, is in my opinion, a very fair and reasonable and  
25 equitable settlement, representing a significant payment to class members in light  
26 of the complexities, risks, and realities of this litigation.

27 13. The parties have agreed on the form and content of all the necessary  
28 documents to be provided to Class Members to inform them of the settlement.

1 They are presented herewith for review and approval by the Court. The Notice of  
2 Class Action Settlement and Claim form - collectively referred to as the "Notice  
3 Packet" -- are attached as Exhibits 1 and 2, respectively, to the Settlement  
4 Agreement. The parties have further agreed as to the terms and conditions under  
5 which notice will be provided, designation of CPT Group, Inc. as claims  
6 administrator, the costs of administration (\$6,500.00), the contingencies or  
7 conditions to the settlement's final approval, and other terms that are necessary and  
8 customarily provided by such class action settlements.

9 14. The Notice provided to Class Members informs them that Plaintiff's  
10 Counsel will move the Court for an award of a \$2,500.00 incentive payment to the  
11 class representative. Stephen Song has been fully involved in the case from the  
12 start. Specifically, Mr. Song has communicated with Class Counsel on a number of  
13 occasions to provide the necessary information needed to litigate this case and  
14 reach the current settlement. In addition, Mr. Song made himself available by  
15 phone at a moment's notice during the settlement conferences, despite the fact that  
16 he was out of the country during the time.

17 15. The Notice provided to Class Members also informs them that Class  
18 Counsel will apply to the Court for an award of fees to be paid from the settlement  
19 fund created, in the amount of 33% of the agreed maximum of \$55,000.00.  
20 Defendant will not object to the request. Thus, in conjunction with the request for  
21 Final Approval of this settlement, and in conformance with the timing dictates of  
22 the recent Ninth Circuit decision in *Mercury Interactive Corp. Secs. Litig. v.*  
23 *Mercury Interactive Corp.*, 618 F.3d 988 (9th Cir. 2010), Class Counsel will seek  
24 an award of attorneys' fees equal to \$18,333.00.

25 16. Additionally, Class Counsel will also seek reimbursement of the costs  
26 incurred to date, and to be incurred up to the time of final approval, in an amount  
27 now estimated to be approximately \$2,600.00. The full and detailed costs will be  
28 set forth at the time of submission for final approval.

### Qualifications of Class Counsel

17. My qualifications are as follows: I received my JD from Arizona State University College of Law in 2003. During law school, I was a summer associate at the law firm of Brobeck, Phleger & Harrison. I graduated cum laude from Arizona State University College of Law in the top 10% of my class. While I was in law school, I was the Associate Managing Editor of the Arizona State University College of Law, Law Journal. For more than one and one-half years after graduating from law school, I practiced law as an associate at the Los Angeles County offices of Ogletree Deakins Nash Smoak & Stewart, P.C., a national employment defense law firm, representing Fortune 500 companies in employment matters, including wage and hour class actions.

18. My primary practice is employment law. I have handled a number of wage and hour matters including class actions and individual actions, on both plaintiff and defense sides. I have a practice that encompasses cases in the Los Angeles Superior Courts, the Orange County Superior Courts, the San Francisco County Superior Courts, the San Diego County Superior Courts, and the United States District Courts for the Central District of California. I have been named as Class Counsel in a number of class actions that have been granted final approval by the Superior Courts of Los Angeles County, Orange County, San Francisco County, and the United States District Court for the Central District of California, including the following Class Actions: *Moody v. Charming Shoppes of Delaware, Inc.*, Northern District of California Case No. C 07-06073 JL; *Montelongo et al v. Cox Auto Trader, Inc. et al*, San Francisco Superior Court Case No. CGC 08-483561; *Chan Lanier v. Citigroup, Inc. et al.*, San Francisco Superior Court Case No. CGC-05-445143; *Ortega v. AIG*, Central District of California Case No. CV 06-0196-RSWL (PJWx); *Universal Protection Overtime Cases*, Orange County Superior Court Case No. JCCP 4480; *Zamudio v. Clear Channel Communications et al.*, Los Angeles Superior Court Case No. BC 368755; *Hernandez v. CVS*

1 *Corporation et al.*, Los Angeles Superior Court Case No. JCCP 4539; *Tse v. Best*  
2 *Buy*, Los Angeles Superior Court Case No. BC 392717.

3 I declare under penalty of perjury under the laws of the State of California  
4 that the foregoing is true and correct to the best of my personal knowledge. This  
5 declaration is executed on May 5, 2011, at Los Angeles, California.

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7  
8 /s/

9 **Larry W. Lee, Esq.**  
10 **Attorney for Plaintiff and the Class**  
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